



House of Representatives

General Assembly

File No. 98

February Session, 2004

Substitute House Bill No. 5409

House of Representatives, March 17, 2004

The Committee on Banks reported through REP. DOYLE of the 28th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING CHECK CASHING SERVICES AND MONEY TRANSMISSION.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 36a-581 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2004*):

3 (a) Except as provided for in section 36a-580, no person shall engage
4 in the business of cashing checks, drafts or money orders for
5 consideration without obtaining a license to operate a general facility
6 or a license to operate a limited facility for each location where such
7 business is to be conducted.

8 (b) Each licensee of a limited facility shall continuously maintain at
9 least one operating general facility. A licensee of a limited facility shall
10 not pay any compensation or consideration to any employer.

11 (c) An application for a check cashing license or renewal of such
12 license shall be in writing, under oath and on a form provided by the

13 commissioner. The application shall set forth: (1) The name and
14 address of the applicant; (2) if the applicant is a firm or partnership,
15 the names and addresses of each member of the firm or partnership;
16 (3) if the applicant is a corporation, the names and addresses of each
17 officer, director, authorized agent and each shareholder owning ten
18 per cent or more of the outstanding stock of such corporation; (4) if the
19 applicant is a limited liability company, the names and addresses of
20 each manager and authorized agent of such limited liability company;
21 (5) each location where the check cashing business is to be conducted
22 and the type of facility that will be operated at that location; [(5)] (6)
23 the business plan, which shall include the proposed days and hours of
24 operation; [(6)] (7) the amount of liquid assets available for each
25 location which shall not be less than the amount specified in
26 subdivision (6) of subsection (e) of this section; [(7)] (8) for each limited
27 facility, a copy of the executed contract evidencing the proposed
28 arrangement between the applicant and the employer; and [(8)] (9) any
29 other information the commissioner may require.

30 (d) [No change shall be made in] A licensee shall not change the
31 location specified [in the application without filing] on its license
32 unless, prior to such change in location, the licensee files an application
33 with the commissioner for change in location accompanied by the
34 [applicable] location transfer fee and receives the approval of the
35 commissioner. [No change shall be made in the type of facility without
36 filing a new application for licensure of the changed facility
37 accompanied by the applicable application fee. No change shall be
38 made to the] A licensee of a limited facility shall not change its
39 approved days and hours of operation [specified in any application
40 without the prior written approval of the commissioner] unless, prior
41 to any such change, the licensee files an application with and receives
42 the approval of the commissioner.

43 (e) Upon the filing of the required application and the applicable
44 application and license fees, the commissioner shall investigate the
45 facts and may issue a license if the commissioner finds that (1) the
46 applicant is in all respects properly qualified and of good character, (2)

47 if the applicant is a firm or partnership, each member of the firm or
48 partnership is in all respects properly qualified and of good character,
49 (3) if the applicant is a corporation, each officer, director, authorized
50 agent and each shareholder owning ten per cent or more of the
51 outstanding stock of such corporation is in all respects properly
52 qualified and of good character, (4) if the applicant is a limited liability
53 company, each manager and authorized agent is in all respects
54 properly qualified and of good character, (5) granting such license
55 would not be against the public interest, [(5)] (6) the applicant has a
56 feasible plan for conducting business, and [(6)] (7) the applicant has
57 available and shall continuously maintain liquid assets of at least ten
58 thousand dollars for each general facility location and at least two
59 thousand five hundred dollars for each limited facility location
60 specified in the application.

61 (f) An applicant or licensee shall promptly notify the commissioner,
62 in writing, of any change in the information provided in its initial or
63 renewal application for licensure or most recent renewal of such
64 license.

65 Sec. 2. Section 36a-582 of the general statutes is repealed and the
66 following is substituted in lieu thereof (*Effective October 1, 2004*):

67 (a) Each applicant for a check cashing license shall pay to the
68 commissioner, a nonrefundable initial application fee of one thousand
69 dollars and a nonrefundable license fee of one hundred dollars for
70 each location. Each licensee shall pay to the commissioner a
71 nonrefundable location transfer fee of one hundred dollars for each
72 application to transfer a location. Each license issued pursuant to
73 section 36a-581, as amended by this act, shall expire at the close of
74 business on June thirtieth of each year unless such license is renewed.
75 Each licensee shall, on or before June twentieth of each year, pay to the
76 commissioner a renewal application fee of seven hundred fifty dollars
77 and a renewal license fee for each location of fifty dollars for the
78 succeeding year, commencing July first.

79 (b) If the commissioner determines that a check filed with the

80 commissioner to pay an application or license fee has been dishonored,
81 the commissioner shall automatically suspend the license or approval
82 or a renewal license that has been issued but is not yet effective. The
83 commissioner shall give the licensee notice of the automatic
84 suspension pending proceedings for revocation or refusal to renew
85 such license and an opportunity for a hearing on such actions in
86 accordance with section 36a-51. If the commissioner determines that a
87 check filed with the commissioner to pay a location transfer fee has
88 been dishonored, the commissioner shall automatically suspend the
89 location transfer approval pending revocation of such approval by the
90 commissioner and an opportunity for a hearing on such actions in
91 accordance with section 36a-51.

92 [(b)] (c) Each applicant or licensee shall pay the expenses of any
93 examination or other investigation under sections 36a-580 to 36a-589,
94 inclusive.

95 [(c)] (d) No abatement of the application, license or location transfer
96 fee shall be made if the license is surrendered, cancelled, revoked or
97 suspended prior to the expiration of the period for which it was issued.

98 Sec. 3. Section 36a-596 of the general statutes is repealed and the
99 following is substituted in lieu thereof (*Effective from passage*):

100 As used in sections 36a-595 to 36a-610, inclusive:

101 (1) "Electronic payment instrument" means a card or other tangible
102 object for the transmission or payment of money which contains a
103 microprocessor chip, magnetic stripe, or other means for the storage of
104 information, that is prefunded and for which the value is decremented
105 upon each use, but does not include a card or other tangible object that
106 is redeemable by the issuer in the issuer's goods or services.

107 (2) "Holder" means a person, other than a purchaser, who is either in
108 possession of a Connecticut payment instrument and is the named
109 payee thereon or in possession of a Connecticut payment instrument
110 issued or endorsed to such person or bearer or in blank. "Holder" does

111 not include any person who is in possession of a lost, stolen or forged
112 Connecticut payment instrument.

113 (3) "Licensee" means any person licensed pursuant to sections 36a-
114 595 to 36a-610, inclusive.

115 (4) "Material litigation" means any litigation that, according to
116 generally accepted accounting principles, is deemed significant to a
117 person's financial health and would be required to be referenced in a
118 person's annual audited financial statements, report to shareholders or
119 similar documents.

120 (5) "Monetary value" means a medium of exchange, whether or not
121 redeemable in money.

122 [(5)] (6) "Money order" means any check, draft, money order or
123 other payment instrument. "Money order" does not include a travelers
124 check or electronic payment instrument.

125 [(6)] (7) "Money transmission" means engaging in the business of
126 receiving money or monetary value for current or future transmission
127 or the business of transmitting money or monetary value within the
128 United States or to locations outside the United States by any and all
129 means including, but not limited to, payment instrument, wire,
130 facsimile or electronic transfer or issuing stored value.

131 [(7)] (8) "Net worth" means the excess of assets over liabilities as
132 determined by generally accepted accounting principles.

133 [(8)] (9) "Outstanding" means, in the case of a money order, travelers
134 check, [or] electronic payment instrument or stored value, that: (A) It is
135 sold or issued in the United States; (B) a report of it has been received
136 by a licensee from its agents or subagents; and (C) it has not yet been
137 paid by the issuer.

138 [(9)] (10) "Payment instrument" means a money order, travelers
139 check or electronic payment instrument that evidences either an
140 obligation for the transmission or payment of money, or the purchase

141 or the deposit of funds for the purchase of such money order, travelers
142 check or electronic payment instrument. A payment instrument is a
143 "Connecticut payment instrument" if it is sold in this state.

144 [(10)] (11) "Permissible investment" means: (A) Cash in United
145 States currency; (B) time deposits, as defined in [subdivision (65) of]
146 section 36a-2, as amended, or other debt instruments of a bank; (C)
147 bills of exchange or bankers acceptances which are eligible for
148 purchase by member banks of the Federal Reserve System; (D)
149 commercial paper of prime quality; (E) interest-bearing bills, notes,
150 bonds, debentures or other obligations issued or guaranteed by: (i) The
151 United States or any of its agencies or instrumentalities, or (ii) any
152 state, or any agency, instrumentality, political subdivision, school
153 district or legally constituted authority of any state if such investment
154 is of prime quality; (F) interest-bearing bills or notes, or bonds,
155 debentures or preferred stocks, traded on any national securities
156 exchange or on a national over-the-counter market, if such debt or
157 equity investments are of prime quality; (G) receivables due from
158 selling agents consisting of the proceeds of the sale of payment
159 instruments which are not past due or doubtful of collection; (H) gold;
160 and (I) any other investments approved by the commissioner.
161 Notwithstanding the provisions of this subdivision, if the
162 commissioner at any time finds that an investment of a licensee is
163 unsatisfactory for investment purposes, the investment shall not
164 qualify as a permissible investment.

165 [(11)] (12) "Prime quality" of an investment means that it is within
166 the top four rating categories in any rating service recognized by the
167 commissioner unless the commissioner determines for any licensee
168 that only those investments in the top three rating categories qualify as
169 "prime quality".

170 [(12)] (13) "Purchaser" means a person who buys or has bought a
171 Connecticut payment instrument.

172 (14) "Stored value" means monetary value that is evidenced by an
173 electronic record. For the purposes of this subdivision, "electronic

174 record" means information that is stored in an electronic medium and
175 is retrievable in perceivable form.

176 [(13)] (15) "Travelers check" means a payment instrument for the
177 payment of money that contains a provision for a specimen signature
178 of the purchaser to be completed at the time of a purchase of the
179 instrument and a provision for a countersignature of the purchaser to
180 be completed at the time of negotiation.

181 Sec. 4. Section 36a-598 of the general statutes, as amended by section
182 84 of public act 03-19, is repealed and the following is substituted in
183 lieu thereof (*Effective October 1, 2004*):

184 (a) Each application for an original or renewal license required
185 under sections 36a-595 to 36a-610, inclusive, shall be made in writing
186 and under oath to the commissioner in such form as the commissioner
187 may prescribe. The application shall include:

188 (1) The exact name of the applicant and, if incorporated, the date of
189 incorporation and the state where incorporated;

190 (2) The complete address of the principal office from which the
191 business is to be conducted, and of the office where the books and
192 records of the applicant are maintained and to be maintained,
193 including the street and number, if any, and the municipality and
194 county of such offices;

195 (3) The complete name and address of each of the applicant's
196 branches, subsidiaries, affiliates and agents and subagents, if any,
197 engaging in this state in the business of selling or issuing Connecticut
198 payment instruments, or engaging in the business of money
199 transmission;

200 (4) The name, title, address and telephone number of the person to
201 whom notice of the commissioner's approval or disapproval of the
202 application shall be sent and to whom any inquiries by the
203 commissioner concerning the application shall be directed;

204 (5) The name and residence address of (A) the individual, if the
205 applicant is an individual; (B) the partners, if the applicant is a
206 partnership; [or] (C) the directors, trustees, principal officers, and any
207 shareholder owning ten per cent or more of each class of its securities,
208 if the applicant is a corporation or association; or (D) the managers, if
209 the applicant is a limited liability company, and sufficient information
210 pertaining to the name and address, in a form acceptable to the
211 commissioner, on such partners, directors, trustees, principal officers,
212 managers, and any shareholder owning ten per cent or more of each
213 class of its securities, as the commissioner deems necessary to make the
214 findings under section 36a-600, as amended by this act;

215 (6) The most recently audited unconsolidated financial statement of
216 the applicant, including its balance sheet and receipts and
217 disbursements for the preceding year, prepared by an independent
218 certified public accountant acceptable to the commissioner;

219 (7) A list of the applicant's permissible investments, the book and
220 market values of such investments, and the dollar amount of the
221 applicant's aggregate outstanding payment instruments (A) as of the
222 date of the financial statement filed in accordance with subdivision (6)
223 of this [section] subsection; and (B) as of a date no earlier than thirty
224 business days prior to the filing of the application;

225 (8) The history of material litigation and criminal convictions for the
226 five-year period prior to the date of the application of (A) the
227 individual, if the applicant is an individual; (B) the partners, if the
228 applicant is a partnership; [or] (C) the directors, trustees, principal
229 officers and any shareholder owning ten per cent or more of each class
230 of its securities, if the applicant is a corporation or association; or (D)
231 the managers, if the applicant is a limited liability company, and
232 sufficient information pertaining to the history of material litigation
233 and criminal convictions, in a form acceptable to the commissioner, on
234 such partners, directors, trustees, principal officers and any
235 shareholder owning ten per cent or more of each class of its securities;

236 (9) (A) The surety bond required by subsection (a) of section 36a-

237 602, as amended by this act, if applicable;

238 (B) A list of the investments maintained in accordance with
239 subsection [(b)] (c) of section 36a-602, as amended by this act, if
240 applicable, and the book and market values of any such investments (i)
241 as of the date of the financial statement filed in accordance with
242 subdivision (6) of this [section] subsection; and (ii) as of a date no
243 earlier than thirty business days prior to the filing of the application;

244 (C) The commissioner may defer compliance with the provisions of
245 this subdivision until after the commissioner rules on the application,
246 but the commissioner shall not issue a license until an applicant
247 complies with the provisions of this subdivision;

248 (10) A statement of whether the applicant will engage in the
249 business of issuing money orders, travelers checks or electronic
250 payment instruments or engage in the business of money transmission
251 in this state;

252 (11) Any other information the commissioner may require.

253 (b) An applicant or licensee shall promptly notify the commissioner,
254 in writing, of any change in the information provided in the
255 application for license or most recent renewal of such license.

256 Sec. 5. Subsection (b) of section 36a-600 of the general statutes is
257 repealed and the following is substituted in lieu thereof (*Effective*
258 *October 1, 2004*):

259 (b) If the commissioner conditionally approves an application, the
260 applicant shall have thirty days, which the commissioner may extend
261 for cause, to comply with the requirements of section 36a-602, as
262 amended by this act. Upon such compliance, the commissioner's
263 conditional approval shall become final, and the commissioner shall
264 issue a license to the applicant. The commissioner shall not issue a
265 license to any applicant unless the applicant is in compliance with all
266 the requirements of subsection (a) of this section and section 36a-602,
267 as amended by this act, and has paid the investigation and license fee

268 required under section 36a-599.

269 Sec. 6. Section 36a-601 of the general statutes is repealed and the
270 following is substituted in lieu thereof (*Effective October 1, 2004*):

271 (a) A license may be renewed for the ensuing twelve-month period
272 upon the filing of an application containing all information required by
273 section 36a-598, as amended by this act, including the information
274 required by subdivisions (6), (7), (8) and (9) of subsection (a) of said
275 section if not previously filed with the commissioner. Such renewal
276 application shall be filed no later than a date specified each year by the
277 commissioner in writing to the licensee. If an application for a renewal
278 license has been filed with the commissioner on or before the date the
279 commissioner has specified, the license sought to be renewed shall
280 continue in full force and effect until the issuance by the commissioner
281 of the renewal license applied for or until the commissioner has
282 notified the licensee in writing of the commissioner's refusal to issue
283 such renewal license together with the grounds upon which such
284 refusal is based. The commissioner may refuse to issue a renewal
285 license on any ground on which the commissioner might refuse to
286 issue an original license.

287 (b) If the commissioner determines that a check filed with the
288 commissioner to pay an investigation or license fee has been
289 dishonored, the commissioner shall automatically suspend a renewal
290 license that has been issued but is not yet effective. The commissioner
291 shall give the licensee notice of the automatic suspension pending
292 proceedings for refusal to renew such license and an opportunity for a
293 hearing on such actions in accordance with section 36a-51.

294 Sec. 7. Section 36a-602 of the general statutes, as amended by section
295 4 of public act 03-61, is repealed and the following is substituted in lieu
296 thereof (*Effective from passage*):

297 (a) As a condition for the issuance and retention of the license,
298 applicants for a license and licensees shall file with the commissioner a
299 surety bond, the form of which shall be approved by the Attorney

300 General, issued by a bonding company or insurance company
301 authorized to do business in this state. The bond shall be in favor of
302 the commissioner, cover claims that arise during the period the license
303 remains in full force and effect and the succeeding two years after such
304 license has been surrendered, revoked or suspended or has expired, in
305 accordance with the provisions of sections 36a-595 to 36a-610,
306 inclusive, and be in the principal sum of (1) three hundred thousand
307 dollars for any applicant and any licensee that engages in the business
308 of issuing Connecticut payment instruments with an average daily
309 balance of outstanding Connecticut payment instruments during the
310 two previous reporting quarters of three hundred thousand dollars or
311 less or any licensee that engages in the business of money transmission
312 with an average weekly amount of money or [equivalent thereof]
313 monetary value received or transmitted, whichever amount is greater,
314 during the two previous reporting quarters of one hundred fifty
315 thousand dollars or less; (2) five hundred thousand dollars for any
316 licensee that engages in the business of issuing Connecticut payment
317 instruments with an average daily balance of outstanding Connecticut
318 payment instruments during the two previous reporting quarters of
319 greater than three hundred thousand dollars but less than five
320 hundred thousand dollars or any licensee that engages in the business
321 of money transmission with an average weekly amount of money
322 [equivalent thereof] or monetary value received or transmitted,
323 whichever amount is greater, during the two previous reporting
324 quarters of greater than one hundred fifty thousand dollars but less
325 than two hundred fifty thousand dollars; and (3) one million dollars
326 for any licensee that engages in the business of issuing Connecticut
327 payment instruments with an average daily balance of outstanding
328 Connecticut payment instruments during the two previous reporting
329 quarters equal to or greater than five hundred thousand dollars or any
330 licensee that engages in the business of money transmission with an
331 average weekly amount of money or [equivalent thereof] monetary
332 value received or transmitted, whichever amount is greater, during the
333 two previous reporting quarters of two hundred fifty thousand dollars
334 or greater. The proceeds of the bond, even if commingled with other

335 assets of the licensee, shall be deemed by operation of law to be held in
336 trust for the benefit of any claimants against the licensee to serve the
337 faithful performance of the obligations of the licensee with respect to
338 the receipt, handling, transmission or payment of money or monetary
339 value in connection with the sale and issuance of payment instruments
340 or transmission of money in the event of the bankruptcy of the
341 licensee, and shall be immune from attachment by creditors or
342 judgment creditors. The commissioner may proceed on such bond
343 against the principal or surety thereon, or both, to collect any civil
344 penalty imposed upon the licensee pursuant to subsection (a) of
345 section 36a-50, as amended. In the event a license has been
346 surrendered, revoked or suspended or has expired, in accordance with
347 the provisions of sections 36a-595 to 36a-610, inclusive, the
348 commissioner, in the commissioner's discretion, may lower the
349 required principal sum of the bond based on the licensee's level of
350 business and outstanding Connecticut payment instruments.

351 (b) The surety company may cancel the bond at any time by a
352 written notice to the licensee, stating the date cancellation shall take
353 effect. Such notice shall be sent by certified mail to the licensee at least
354 thirty days prior to the date of cancellation. A surety bond shall not be
355 cancelled unless the surety company notifies the commissioner in
356 writing not less than thirty days prior to the effective date of
357 cancellation. The commissioner shall automatically suspend the license
358 on the date the cancellation takes effect, unless the surety bond has
359 been replaced or renewed, all of the principal sum of such surety bond
360 has been invested as provided in subsection (c) of this section, or the
361 surety bond has been replaced in part and the remaining part of the
362 principal sum of such surety bond has been invested as provided in
363 subsection (c) of this section or unless the licensee has ceased business
364 and has voluntarily surrendered the license. The commissioner shall
365 give the licensee notice of the automatic suspension pending
366 proceedings for revocation or refusal to renew such license and an
367 opportunity for a hearing on such actions in accordance with section
368 36a-51.

369 [(b)] (c) In lieu of all or part of the principal sum of such surety
370 bonds, applicants for a license and licensees may invest such sum as
371 provided in this subsection. The book or market value, whichever is
372 lower, of such investments shall be equal to the amount of the bond
373 required by subsection (a) of this section less the amount of the bond
374 filed with the commissioner by the applicant or licensee. Such
375 investments may be:

376 (1) Deposits with such banks as such applicants or licensees may
377 designate and the commissioner may approve, and in accordance with
378 such regulations as the commissioner may adopt; or

379 (2) Interest-bearing bills, notes, bonds, debentures or other
380 obligations issued or guaranteed by (A) the United States or any of its
381 agencies or instrumentalities, or (B) any state, or any agency,
382 instrumentality, political subdivision, school district or legally
383 constituted authority of any state if such investment is of prime
384 quality.

385 [(c)] (d) The investments provided for in subsection [(b)] (c) of this
386 section shall secure the same obligation as would a surety bond filed
387 under this section. As long as a licensee continues business in the
388 ordinary course, it shall be permitted to collect interest on such
389 investments and at any time to exchange, examine, and compare such
390 investments. The investments made pursuant to this section, even if
391 commingled with other assets of the licensee, shall be deemed by
392 operation of law to be held in trust for the benefit of any claimants
393 against the licensee to serve the faithful performance of the obligations
394 of the licensee with respect to the receipt, handling, transmission or
395 payment of money in connection with the sale and issuance of
396 Connecticut payment instruments or transmission of money in the
397 event of the bankruptcy of the licensee, and shall be immune from
398 attachment by creditors or judgment creditors.

399 Sec. 8. Section 36a-603 of the general statutes is repealed and the
400 following is substituted in lieu thereof (*Effective from passage*):

401 (a) Each licensee shall at all times maintain permissible investments
402 having a value, computed in accordance with generally accepted
403 accounting principles, at least equal to the aggregate amount of its
404 outstanding payment instruments and stored value.

405 (b) As used in subsection (a) of this section, "value" means the lower
406 of book or market value, except that with regard to debt obligations
407 which the licensee as a matter of policy retains until maturity, "value"
408 means the greater of book or market value unless the commissioner
409 orders that for some or all investments of a particular licensee, "value"
410 means the lower of book or market value.

411 (c) Permissible investments, even if commingled with other assets of
412 the licensee, shall be deemed by operation of law to be held in trust for
413 the benefit of any claimants against the licensee to serve the faithful
414 performance of the obligations of the licensee with respect to the
415 receipt, handling, transmission or payment of money or monetary
416 value in connection with the sale and issuance of payment instruments
417 or transmission of money or monetary value in the event of the
418 bankruptcy of the licensee, and shall be immune from attachment by
419 creditors or judgment creditors.

420 Sec. 9. Subsection (c) of section 36a-604 of the general statutes is
421 repealed and the following is substituted in lieu thereof (*Effective from*
422 *passage*):

423 (c) Each licensee that engages in the business of money
424 transmission, except by issuing stored value shall at all times have a
425 net worth of at least five hundred thousand dollars. Each licensee that
426 engages in the business of money transmission by issuing stored value
427 shall at all times have a net worth of at least five hundred thousand
428 dollars or a higher amount as determined by the commissioner, in
429 accordance with generally accepting accounting principles.

430 Sec. 10. Subsection (b) of section 36a-605 of the general statutes is
431 repealed and the following is substituted in lieu thereof (*Effective*
432 *October 1, 2004*):

433 (b) The commissioner may enter into cooperative, coordinating and
434 information-sharing agreements with any other state or federal
435 supervisory agency or any organization affiliated with or representing
436 such supervisory agency with respect to the examination, examination
437 fees or other supervision of any person subject to the provisions of
438 sections 36a-595 to 36a-610, inclusive. Any such agreement may
439 include provisions concerning the assessment or sharing of fees for
440 such examination or supervision.

441 Sec. 11. Subsection (a) of section 36a-606 of the general statutes is
442 repealed and the following is substituted in lieu thereof (*Effective from*
443 *passage*):

444 (a) On or before the thirtieth day of April each year, each licensee
445 shall file with the commissioner:

446 (1) Its most recently audited unconsolidated financial statement,
447 including its balance sheet and receipts and disbursements for the
448 preceding year, prepared by an independent certified public
449 accountant acceptable to the commissioner;

450 (2) A list of permissible investments, the book and market value of
451 such investments, and the dollar amount of the licensee's aggregate
452 outstanding payment instruments; and

453 (3) A list of investments maintained in accordance with subsection
454 [(b)] (c) of section 36a-602, as amended by this act, if applicable, the
455 book and market values of such investments and the dollar amount of
456 the licensee's aggregate outstanding Connecticut payment instruments
457 and stored value.

458 Sec. 12. Section 36a-609 of the general statutes, as amended by
459 section 6 of public act 03-61, is repealed and the following is
460 substituted in lieu thereof (*Effective from passage*):

461 The provisions of sections 36a-597 to 36a-606a, inclusive, as
462 amended, shall not apply to:

463 (1) Any federally insured federal bank, out-of-state bank, federal
 464 credit union or out-of-state credit union, provided such institution
 465 does not issue or sell Connecticut payment instruments or transmit
 466 money or monetary value through an agent or subagent which is not a
 467 federally insured bank, out-of-state bank, Connecticut credit union,
 468 federal credit union or out-of-state credit union;

469 (2) Any Connecticut bank or Connecticut credit union;

470 (3) The United States Postal Service; and

471 (4) A person whose activity is limited to the electronic funds transfer
 472 of governmental benefits for or on behalf of a federal, state or other
 473 governmental agency, quasi-governmental agency or government
 474 sponsored enterprise.

This act shall take effect as follows:	
Section 1	<i>October 1, 2004</i>
Sec. 2	<i>October 1, 2004</i>
Sec. 3	<i>from passage</i>
Sec. 4	<i>October 1, 2004</i>
Sec. 5	<i>October 1, 2004</i>
Sec. 6	<i>October 1, 2004</i>
Sec. 7	<i>from passage</i>
Sec. 8	<i>from passage</i>
Sec. 9	<i>from passage</i>
Sec. 10	<i>October 1, 2004</i>
Sec. 11	<i>from passage</i>
Sec. 12	<i>from passage</i>

Statement of Legislative Commissioners:

In subdivision (14) of section 3, a definition of "electronic record" was added for accuracy.

BA *Joint Favorable Subst.-LCO*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note**State Impact:**

Agency Affected	Fund-Effect	FY 05 \$	FY 06 \$
Banking Dept.	BF - None	None	None

Note: BF=Banking Fund

Municipal Impact: None

Explanation

The bill increases the amount of information a limited liability company must provide when applying for a check cashing or money transmission license. The bill also makes various changes to laws concerning check cashing and money transmission, but has no fiscal impact on the Banking Department.

OLR Bill Analysis

sHB 5409

AN ACT CONCERNING CHECK CASHING SERVICES AND MONEY TRANSMISSION**SUMMARY:**

This bill requires limited liability companies applying for check cashing or money transmission licenses to include certain information in their applications. It requires the banking commissioner, if he determines that a check filed with his office to pay license, application, or certain other fees has been dishonored, to suspend the license automatically and give the licensee notice and an opportunity for a hearing. It expands money transmission laws to apply to stored and monetary value, in addition to money. And it allows surety companies to cancel money transmitters' surety bonds at any time by giving notice to the licensee and the commissioner.

EFFECTIVE DATE: October 1, 2004, except for the provisions applying money transmission laws to stored and monetary value and allowing surety companies to cancel their bonds, which take effect upon passage.

CHECK CASHING LICENSES (§§ 1, 2)***Limited Liability Company Licensees***

The bill requires a limited liability company applying for a check cashing license to list on its application the names and addresses of each of its managers and authorized agents. It requires the commissioner to investigate whether each such manager and authorized agent is in all respects properly qualified and of good character as part of the licensing process.

Changes to Licenses and Applications

The bill specifies that the application a licensee must file with the commissioner to change its location must be filed prior to the location change, and the licensee also must receive the commissioner's

approval. Current law requires only that the licensee file the application and accompanying location transfer fee. The bill eliminates a requirement that a licensee file a new application and pay a fee when changing its type of facility. It requires applicants and licensees to notify the commissioner promptly, in writing, of any change in the information provided in their initial or renewal application for licensure or most recent license renewal.

License Suspension

The bill requires the commissioner, if he determines that a check filed with his office to pay an application or license fee has been dishonored, to suspend automatically a check cashing service's license or approval or a renewal license that has been issued but is not yet effective. He must give the licensee notice of the automatic suspension pending proceedings for revocation or refusal to renew and an opportunity for a hearing on those actions. The bill also requires the commissioner, if he determines a check filed with his office to pay a location transfer fee has been dishonored, to suspend automatically the location transfer approval pending revocation of the approval and an opportunity for a hearing on that action.

MONEY TRANSMISSION LICENSES

Applications (§ 4)

The bill requires a limited liability company's application to engage in the business of money transmission to include the managers' (1) names, (2) home addresses, and (3) history of material litigation and criminal convictions for the five years prior to the application date. The application must also provide sufficient information about the managers' names and addresses, in addition to those of other required parties, as the commissioner deems necessary. The bill also requires all applicants and licensees, regardless of the type of entity, to notify the commissioner promptly, in writing, of any change in the information provided in their initial or renewal application for licensure or most recent license renewal.

Fees (§§ 5, 6)

The bill prohibits the commissioner from issuing a money transmission license to anyone who has not paid the required investigation and license fees. By law, an investigation fee is \$500, and initial and

renewal license fees are \$1,000.

If the commissioner determines that a check filed with his office to pay an investigation or license fee has been dishonored, the bill requires him automatically to suspend a money transmission renewal license that has been issued but it not yet effective. He must give the licensee notice of the automatic suspension pending proceedings for refusal to renew the license and an opportunity for a hearing on those actions.

Bond Requirement (§§ 3, 7)

By law, money transmission licensees must file a surety bond with the commissioner. Current law allows the bond amount to be based on a licensee's average daily balance of outstanding Connecticut payment instruments or its average weekly amount of money or equivalent transmitted. The bill requires licensees to base the bond on whichever of those amounts is greater, and bases the average weekly transmission amount on the amount of money or monetary value sent. It defines "monetary value" as a medium of exchange, whether or not redeemable in money.

The bill also allows the surety company to cancel the bond at any time by written notice to the licensee stating the date the cancellation takes effect. The notice must be sent by certified mail at least 30 days before the cancellation date. The surety bond may not be cancelled unless the surety company also notifies the commissioner in writing at least 30 days before the cancellation date. The commissioner must automatically suspend the license on the cancellation date, unless the surety bond has been replaced or renewed, all of the bond principal has been invested, the bond has been replaced in part and the remainder of the principal has been invested, or the licensee has ceased business and voluntarily surrendered the license. The bill requires the commissioner to give the licensee notice of the automatic suspension pending proceedings for revocation or refusal to renew and an opportunity for a hearing on those actions.

Investment Requirement (§ 3, 8)

By law, a money transmission licensee must maintain permissible investments with a value of at least the aggregate amount of its outstanding payment instruments. The bill requires these investments to equal at least the aggregate amount of the licensee's outstanding

payment instruments plus its stored value. It defines “stored value” as monetary value evidenced by an electronic record.

The bill also requires the licensee’s investments, which the law deems held in trust for the benefit of successful claimants against the licensee, to ensure the faithful performance of its obligations with respect to the receipt, handling, transmission, or payment of monetary value. The investments already must guarantee the licensee’s faithful performance of its obligations with respect to money.

Net Worth Requirement (§ 9)

Currently, a money transmission licensee must have a net worth of at least \$500,000. The bill allows the commissioner to set a higher amount, determined in accordance with generally accepted accounting principles, for licensees engaging in the business of money transmission by issuing stored value.

Fee-Sharing (§ 10)

By law, the commissioner may enter into agreements with other state or federal supervisory agencies or affiliated organizations for examinations, examination fees, and supervision of people engaged in the business of money transmission. The bill allows the agreements to include provisions regarding the assessment or sharing of fees for such examination or supervision.

Annual Reports (§ 11)

By law, money transmission licensees must file with the commissioner annual reports of their financial information, including a list of investments and the dollar amounts of their aggregate outstanding Connecticut payment instruments. The bill also requires them to disclose the dollar amounts of their stored value.

Exempt Entities (§ 12)

The law exempts from the money transmission statutes financial institutions that do not engage in the business of money transmission except with other financial institutions. The bill clarifies that this exemption applies to such financial institutions transmitting monetary value as well as money.

BACKGROUND***Related Bill***

HB 5411, An Act Concerning Consumer Credit Licensees and Creditors' Collection Practices, requires the banking commissioner automatically to suspend the license of several regulated entities if their license or application fee checks are dishonored, and to give them notice and an opportunity for a hearing.

COMMITTEE ACTION

Banks Committee

Joint Favorable Report

Yea 17 Nay 0